IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 850 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE MD SHAH

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JHANKHANA BHARATBHAI JOSHI D/O VASANTKUMAR NAROTTAMDAS SA & 1 - Applicant(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR MEHUL H RATHOD for Applicant(s) : 1 - 2.
MR UR BHATT PUBLIC PROSECUTOR for Respondent(s) : 1,
None for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE MD SHAH

Date : 03/05/2007

ORAL JUDGMENT

1.0 By way of this petition, the petitioners have prayed to quash and set aside criminal compliant being I-C.R. No.7 of 2007 registered with Sihori Police Station, District : Banaskantha.

2.0 The brief facts of the case are that petitioner Nos.1 and 2 wanted to marry. But,

since their family members were not ready and willing to give consent to their marriage, both petitioner Nos.1 and 2 left their respective homes on 23.01.2007. Respondent No.2, therefore, filed the impugned complaint. Thereafter, petitioners got married at Baroda. Hence, being aggrieve with the action of respondent No.2, the petitioners have preferred the present petition.

3.0 Heard. On perusal of the record it appears that since family members of the petitioner Nos. 1 and 2 were not ready to give consent to marriage between the petitioners, both the petitioners left their respective parental homes.

3.1 In above view of the matter, here it would be relevant to refer to a decision of the Hon'ble Apex Court in the case of ***"Lata Singh Vs. State of Uttar Pradesh & Anr."*** reported in 2007(1)G.L.H. 41 wherein it has been held that once a person becomes major, he or she can marry

whosoever he or she likes and that there is no bar to an inter-caste or inter-religious marriage under the law and when a young man and woman, who undergo inter-caste or inter-religious marriage, are threated with violence or violence is actually committed on them, such acts of violence or threats or harassment are wholly illegal and those who commit them must be severely punished.

3.2 From the record it clearly transpires that petitioner Nos.1 and 2 left their respective homes at their own wish and will, with a view to marry. The fact that the petitioner No.1 and No.2 got married on 17.02.2007 at Baroda is not in dispute. In support of the same, the petitioners have produced marriage certificate issued by the Registrar of Marriages, Baroda. Therefore, since petitioner No.1 had voluntarily left her parental home and accompanied petitioner No.2 with a view to marry petitioner No.2, it cannot be said that the petitioner No.2 had allured petitioner No.1 to leave her parental home.

3.3 Apart from that from the documents produced at Annexure-'A' and 'B' to this petition it transpires that the date of birth of petitioner No.1 is 01.12.1983 and that of petitioner No.2 is 05.06.1985 respectively, meaning thereby when the alleged offence took place both petitioner No.1 and No.2 were major. Hence, in view of the fact that the petitioners are major and have now got married and are happily staying together, it would not be appropriate to compel them to face the proceedings in connection with the complaint filed against them by respondent No.2.

3.4 Hence, taking into consideration the facts and circumstances of the case and in view of the principle laid down by the Hon'ble Apex Court in the case of ***"Lata Singh"***(Supra) this application deserves to be allowed.

4.0 In the result, the application is

allowed. The criminal compliant being I-C.R. No.7 of 2007 registered with Sihori Police Station, District : Banaskantha is hereby quashed and set aside. Rule is made absolute.

(M.D. Shah,J.)

Umesh/